

RBS, RHS, and RUS, USDA

§ 5001.6

(1) *Lender and borrower eligibility.* No exception to lender or borrower eligibility can be made.

(2) *Project eligibility.* No exception to project eligibility can be made.

(3) *Rural area definition.* No exception to the definition of rural area, as defined in § 5001.2, can be made.

(4) *Term length.* No exception to the maximum length of the loan term, as specified in § 5001.31(c), can be made.

(b) *Review or appeal rights.* A person has review or appeal rights in accordance with 7 CFR part 11.

§ 5001.4 Oversight and monitoring.

(a) *General.* The lender will cooperate fully with Agency oversight and monitoring of all lenders involved in any manner with any guarantee under this program to ensure compliance with this part, including ensuring lenders continue to meet the criteria for being an approved lender or a preferred lender. Such oversight and monitoring will include, but is not limited to, reviewing lender records and meeting with lenders. In addition, the Agency will review all approved and preferred lenders for eligibility at least every two years.

(b) *Reports and notifications.* The Agency will require lenders to submit to the Agency reports and notifications to facilitate the Agency's oversight and monitoring. These reports and notifications include, but are not necessarily limited to:

(1) Periodic reports, to be submitted semiannually, regarding the condition of its Agency guaranteed loan portfolio (including borrower status and loan classification) and any material change in the general financial condition of the borrower since the last periodic report was submitted.

(2) Monthly default reports for each loan in monetary default using a form approved by the Agency.

(3) Notification within 15 calendar days of:

(i) Any loan agreement violation by any borrower, including when a borrower is 30 days past due or is otherwise in default;

(ii) Any permanent or temporary reduction in interest rate; and

(iii) Any downgrade in the loan classification of any loan made under this part.

(4) If a lender receives a final loss payment, an annual report on its collection activities for each unsatisfied account for 3 years following payment of the final loss claim.

§ 5001.5 Forms, regulations, and instructions.

Copies of all forms, regulations, and instructions referenced in this part may be obtained through the Agency.

BASIC ELIGIBILITY PROVISIONS

§ 5001.6 Project eligibility.

To be eligible for a guaranteed loan under this part, at a minimum, a borrower and project, as applicable, must meet each of the requirements specified in paragraphs (a) through (c) of this section.

(a) The project must meet the requirements specified in subpart B of this part.

(b) The borrower must meet the financial metric criteria specified in paragraphs (b)(1) through (b)(3) of this section. These financial metric criteria shall be calculated from the realistic information in the pro forma statements or borrower financial statements, submitted in accordance with § 5001.12(a)(10), of a typical operating year after the project is completed and stabilized. For projects that the Agency deems to be more risky, such as racetracks and water parks, the Agency will require higher underwriting standards for such projects.

(1) A debt coverage ratio of 1.0 or higher;

(2) A debt-to-tangible net worth ratio of 4:1 or lower for startup businesses and of 9:1 or lower for existing businesses.

(3) A loan-to-value ratio of no more than 1.0.

(c) For projects that are determined by a service area, boundaries for the proposed service area must be chosen in such a way that no user or area will be excluded because of race, color, religion, sex, marital status, age, disability, or national origin. This does not preclude: